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HUMAN RIGHTS COMMITTEE

Thirty-ninth session

SUMMARY RECORD OF THE 1006th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 26 July 1990, at 10 a.m.

Chairman: Mr. LALLAH

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Annual report of the Committee to the General Assembly through the Economic and Social Council under article 45 of the Covenant and article 6 of the Optional Protocol

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The meeting was called to order at 10.35 a.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 6) (CCPR/C/39/CRP.1 and CCPR/C/39/CRP.1/Add.1-Add.25)

1. The CHAIRMAN invited the Committee to consider and adopt those chapters of the report that were available in all languages.

Document CCPR/C/39/CRP.1 (Chapter I. Organizational and other matters)

2. Sections A and B were adopted.

Section C

3. Mr. POCAR (Rapporteur) indicated two changes to be made to the last sentence of paragraph 5, the first phrase should read: "The thirty-ninth session was attended by all members of the Committee, except Mr. Mommersteeg and Mr. Serrano Caldera", while Mr. Serrano Caldera's name should of course be deleted from the last part of the sentence.

4. Section C, as orally amended, was adopted.

5. Section D was adopted.

Section E

6. Mr. POCAR (Rapporteur) drew attention to paragraph 11 on consideration of third periodic reports. The Committee had not in fact specifically discussed that matter at the three sessions covered by the report but he had considered it useful to mention it. Naturally, the Committee was free to approve or not to approve that paragraph.

7. Following paragraph 11, two more paragraphs should be inserted to reflect, firstly, the Committee's discussion on the follow-up to its views on communications submitted to it under the Optional Protocol and, secondly, of the informal workshop in which some members of the Committee had participated. New paragraph 12 would read:

> "12. At its 1002nd meeting, the Committee decided to adopt certain measures to follow up on its views on communications under the Optional Protocol to the Covenant (see chapter V, paras. 39 to 42 of the present report). Consequently, it amended its guidelines for the submission of initial and periodic reports by adding a new paragraph which would read as follows:".

8. The text of the paragraph adopted at the 1002nd meeting would be inserted at that point.

9. New paragraph 13 would read:

"13. At the weekend following the first week of the Committee's thirty-ninth session, members of the Committee participated in an informal workshop in Geneva, organized by the Norwegian Institute of Human Rights, devoted to a review of the Committee's current practice relating to reporting under article 40 of the Covenant and to the consideration of suggestions for possible improvements. A considerable number of ideas and suggestions emerged from the discussions and were later briefly considered by the Committee as a whole. At its 1003rd meeting, the Committee entrusted its Working Group on article 40, that was to meet prior to the fortieth session, to give those suggestions more detailed consideration with a view to making recommendations to the Committee, if deemed appropriate."

10. Subsequent paragraphs should of course be renumbered.

11. The CHAIRMAN suggested two amendments to new paragraph 13. Firstly, "members" should be replaced by "a number of members" and, secondly, at the end of the penultimate sentence, the phrase: "in conjunction with several other ideas which members of the Committee had made from time to time" should be inserted.

12. Mr. POCAR (Rapporteur) accepted those two amendments.

13. Ms. CHANET, referring to paragraph 10, wondered whether it would really be appropriate to quote specific cases of progress noted on the international scene, as the Committee might overlook some events. Moreover, it did not seem to her that the facts quoted, which illustrated political developments, came within the competence of the Committee. It would be sufficient to indicate that the Committee was pleased at the international climate of recent months, which had made possible a détente that it hoped would be favourable to human rights.

14. Mr. POCAR (Rapporteur) pointed out that the examples given in that paragraph had been mentioned by the Under-Secretary-General for Human Rights in his address at the opening of the Committee's thirty-eighth session in New York. That address had given rise to statements on the part of several members of the Committee, who had emphasized the importance of recent developments.

15. The CHAIRMAN asked if it might not be possible simply to delete the examples.

16. Mr. MAVROMMATIS pointed out that all the events mentioned in paragraph 10 had a direct bearing on civil and political rights and were certainly favourable to the exercise of human rights. If the Human Rights Committee did not mention them, it would be the only treaty body to have passed over them in silence.

READEX

17. Mr. EL-SHAFEI said that it would be wiser not to give examples, as the Committee was in danger of overlooking certain important events. He was thinking, for example, of the elections that had taken place in the Middle East, which were not without effect for human rights.

18. The CHAIRMAN observed that it was not for the Committee to make a report on the state of the world but on its own work. Nevertheless, as the Under-Secretary-General for Human Rights had mentioned those specific events and members of the Committee had also alluded to them in their statements, he did not see why reference should not be made to them in the report. However, if any member could recall that the Under-Secretary-General had quoted other examples which had been omitted from the paragraph, they should be added to it.

19. Mr. PRADO VALLEJO said that a phrase might be added at the beginning of paragraph 10 to indicate that, on the occasion of the statement made by the Under-Secretary-General for Human Rights at the beginning of the Committee's thirty-eighth session, the latter had taken note with great satisfaction of the dramatic improvement in the international climate. Like Ms. Chanet, he was in favour of deleting the examples.

20. Mr. POCAR (Rapporteur) proposed that the paragraph should be reworded on the basis of Mr. Prado Vallejo's suggestion. It might read: "The Committee took note of a statement by the Under-Secretary-General for Human Rights on the dramatic improvements in the international climate", followed by the current text, with the examples given by the Under-Secretary-General for Human Rights. To take into account the objection of members who thought that the enumeration might not be complete, an addition could be made to the last sentence so that it would read: "The Committee felt that these and other improvements provided favourable opportunities ...".

21. The CHAIRMAN noted that the text as amended seemed to have the approval of all members of the Committee. If there was no objection, he would take it that the Committee wished to approve it.

22. It was so decided.

23. Section E, as orally amended, was adopted.

Section F (new paragraph 14)

24. Mr. WAKO wondered whether, in that paragraph, the Committee should not express its disappointment at the fact that, despite the press conference held in October 1989, its work had not received any more publicity than before.

25. The CHAIRMAN said that it would certainly be useful to note that concern but the Committee had not discussed the matter and could not therefore mention it in its report. It should find another means of dealing with it.

26. Section F was adopted.

Section G

27. The CHAIRMAN said that the letter which he was to address to the Committee on Conferences (see para. 16) had already been drafted and that the text would be distributed at the 1007th meeting.

28. Section G was adopted.

29. Section H was adopted subject to the insertion of the numbers of the meetings at which the Committee had considered its draft annual report.

30. Document CCPR/C/39/CRP.1, as orally amended, was adopted.

Document CCPR/C/39/CRP.1/Add.1 (Chapter II. Action by the General Assembly at its forty-fourth session)

31. Mr. POCAR (Rapporteur) pointed out that the annex to which reference was made at the end of paragraph 5 would be annex VIII.

32. Document CCPR/C/39/CRP.1/Add.1 was adopted without further amendment.

Document CCPR/C/39/CRP.1/Add.2 (Chapter III. Reports by States parties submitted under article 40 of the Covenant)

33. Mr. POCAR (Rapporteur) said that, in paragraph 11, Austria should be added to the list of countries from which second periodic reports had been received.

34. Mr. PRADO VALLEJO pointed out that, in the Spanish text of paragraph 9, it was stated that the members of the Bureau should meet "a titulo individual" with the permanent representatives of all States parties, which seemed to him to be inaccurate; it was as members of the Committee that members of the Bureau should meet those representatives.

35. Mr. POCAR (Rapporteur) said that the word used was "individuellement" in French and "individually" in English, which was very different.

36. The CHAIRMAN, at the proposal of Mr. PRADO VALLEJO, said that "individually" should be deleted in all languages.

37. It was so decided.

38. Document CCPR/C/39/CRP.1/Add.2, as orally amended, was adopted.

Document CCPR/C/39/CRP.1/Add.3 (Chapter III. Consideration of reports submitted by States parties under Article 40 of the Covenant. B.3. Democratic Yemen)

Paragraphs 1-5

39. Mr. POCAR (Rapporteur), referring to the name of the State party, drew attention to the footnote on page 4 of annex I to the draft report (document CCPR/C/39/CRP.1/Add.19), which read:

> "As of 22 May 1990 the People's Democratic Republic of Yemen and the Yemen Arab Republic merged into a single sovereign State, the Republic of Yemen, with Sana'a as its capital. The People's Democratic Republic of Yemen had acceded to the Covenant on 9 May 1987. The Yemen Arab Republic was not a State party to the Covenant."

40. He asked whether, in the opinion of the members of the Committee, it was sufficient to mention the footnote in annex I to the annual report or whether a note should also be inserted at the beginning of the part of the report on the consideration of the initial report of Democratic Yemen by the Committee, contained in document CCPR/C/39/CRP.1/Add.3.

41. Mr. ANDO said that the Committee had considered the initial report of Democratic Yemen before the merger of the two Yemenite States and that, consequently, it was unnecessary to mention that event in chapter III, which was an account of the consideration of that initial report.

42. Mr. EL-SHAFEI said that the presence of a footnote in that part of the Committee's annual report giving an account of consideration of the initial report of Democratic Yemen would draw the attention of the authorities of the new State to measures to be taken concerning succession of States in respect of treaties, in other words with a view to the accession of the new State to the Covenant.

43. Mr. MAVROMMATIS said that he was of the same opinion.

44. The CHAIRMAN said he was in favour of a footnote indicating that the Committee was aware of the change and that it had taken note of it in annex I to its report (CCPR/C/39/CRP.1/Add.19).

45. Paragraphs 1-5 of document CCPR/C/39/CRP.1/Add.3 were adopted, with a footnote referring to the note concerning the merger of the two Yemenite States, contained in annex I, document CCPR/C/39/CRP.1/Add.19.

Paragraphs 6-26

46. Paragraphs 6-26 were adopted.

Paragraphs 27-31

47. Mr. ANDO said that he had some drafting changes to propose and would submit them directly to the Rapporteur.

48. Paragraphs 27-31 were adopted.

Paragraphs 32-34

49. Paragraphs 32-34 were adopted.

50. Document CCPR/C/39/CRP.1/Add.3, as amended by the insertion of a footnote concerning the name of the State party, was adopted.

Document CCPR/C/39/CRP.1/Add.4 (Chapter III. Consideration of reports submitted by States parties under article 40 of the Covenant. B.3. Union of Soviet Socialist Republics)

Paragraphs 1-3

51. Paragraphs 1-3 were adopted.

Paragraphs 4-11: Constitutional and legal framework within which the Covenant is implemented

52. Mr. MYULLERSON said that the word "momentous" in the first line of paragraph 5 had been translated into Russian by too strong a term and that he would propose a correction to the Rapporteur. In addition, the penultimate sentence of paragraph 7 contained information which was not wholly accurate. The measures which trade union committees were entitled to take were not tantamount to a judicial decision. He therefore proposed that the end of that sentence, from the words "and were entitled ...", should be deleted.

53. Mr. POCAR (Rapporteur) accepted that amendment.

54. Paragraph 7, as revised by the Rapporteur in accordance with the amendment of Mr. Myullerson, was adopted.

55. Mr. MYULLERSON said that the second sentence of paragraph 10 was not very clear, at least in Russian. He found it difficult to see what was meant by "moral weight". A treaty could be invoked on the basis of a legal provision but not on moral grounds. Moreover, international treaties could not simply be invoked under any circumstances and he preferred that the sentence should be deleted.

56. Mrs. HIGGINS proposed the deletion of the word "moral".

57. Mr. MAVROMMATIS said that such an amendment would not fully take account of the comment made by Mr. Myullerson, who had proposed that the penultimate sentence should be deleted. The latter was, moreover, somewhat at variance with the last sentence, which should in itself be sufficient to explain the situation.

58. Mr. POCAR (Rapporteur) said that the sentence in question was reproduced from the summary record but that he saw no difficulty in deleting it either wholly or in part.

59. Paragraph 10, as amended by the deletion of the penultimate sentence, was adopted.

60. Paragraphs 4-11 were adopted.

Paragraphs 12-16: Self-determination

61. Mr. MYULLERSON drew attention to some inaccuracies in what was said in the third sentence of paragraph 15. He did not see why special mention was made of Soviet citizens living in the Baltic Republics rather than those living in other republics, or why mention was made of "states", and would like to have the sentence amended. The wording could be modified to indicate that the representative of the State party had said that there was also a draft bill on the free national development of Soviet citizens, such as the Crimean Tartars, the Volga Germans and also all people living outside their territorial or national entities or not belonging to an autonomous territory or nation within the USSR.

62. The CHAIRMAN asked Mr. Myullerson to draft a text for the Rapporteur and invited the Committee to adopt paragraph 15, bearing in mind the amendment for which a text would be provided by Mr. Myullerson.

63. Paragraph 15 was adopted, taking into account the amendment for which Mr. Myullerson would provide the text.

64. Mr. MYULLERSON said that in the first sentence of paragraph 16, the words "by the Soviet Union" should be deleted as, in actual fact, it was the Union Republics themselves which could limit their sovereignty in favour of the Soviet Union.

65. Mr. POCAR (Rapporteur) agreed to delete the words "by the Soviet Union" in the first sentence of paragraph 16.

66. Paragraph 16, as amended, was adopted.

67. Paragraphs 12-16, as amended, were adopted.

Paragraphs 17 and 18: State of emergency

68. Paragraphs 17 and 18 were adopted.

Paragraphs 19 and 20: Non-discrimination and equality of the sexes

69. Mr. MYULLERSON, referring to the statement in the last sentence of paragraph 20 that "The USSR did not have a specific law concerning the rights and obligations of foreigners", said that such a law had in fact been in existence for some 10 years. It was true that the sentence reflected what the Soviet delegation had said but it had made a mistake.

70. Mr. POCAR (Rapporteur) said that the report had to reflect what was actually said and what was contained in the summary records.

71. Mr. WENNERGREN said that, while the report took account of the State party's replies, it summarized them and therefore did not give full coverage. It was pointless to reproduce an item of information which was of no use.

72. Mrs. HIGGINS said that something which had been said could not be deleted, even if it was an error. It did happen that countries deliberately presented reality in a certain light.

73. The CHAIRMAN thought that very probably the Government of the USSR would correct the error in its next periodic report and that the text should remain as it was.

74. Paragraphs 19 and 20 were adopted.

Paragraphs 21-23: Right to life

75. Mr. MYULLERSON, referring to the last sentence of paragraph 22, observed that the Military Procurator's Office was part of the Procurator-General's Office and that was in actual fact one and the same institution. He would therefore like the last sentence to be reworded to read: "A commission of inquiry had been set up by the Congress of People's Deputies. The Procurator-General's Office was involved in supervising the investigations."

76. Mr. POCAR (Rapporteur) said it was clear from the summary records covering consideration of the report of the USSR that those were two distinct institutions. The Committee should therefore retain the present wording of the last sentence of paragraph 22.

77. Paragraphs 21-23 were adopted.

Paragraphs 24-29: Liberty and security of the person and treatment of prisoners and other detainees

78. Mr. POCAR (Rapporteur) said that a number of corrections should be made to the text. Firstly, the word "prison" in the second line of paragraph 24 should be deleted. Secondly, in the fourth and fifth lines of paragraph 26, the words "for such crimes as murder and abduction" should be deleted. Thirdly, in the ninth and tenth lines of paragraph 27, the words "detention while the facts of a case were being established" should be replaced by "pre-trial detention". Lastly, in the seventh line of paragraph 29, the words "The Congress" should be replaced by "The Soviets".

79. Mr. MYULLERSON suggested that the latter expression should be replaced by "The Soviets of people's deputies".

80. Paragraphs 24-29, as orally amended by the Rapporteur and at the proposal of Mr. Myullerson, were adopted.

Paragraphs 30-32: Right to a fair trial

81. Mr. POCAR (Rapporteur) said that the second sentence of paragraph 31 should read: "For example, only the Procurator-General of the USSR or the procurators of the Republics would be entitled in the future to bring charges ...".

82. Paragraphs 30-32, as orally amended, were adopted.

Paragraphs 33-35: Freedom of movement and expulsion of aliens

83. Mrs. HIGGINS said that the new legislation referred to in the thirteenth and fourteenth lines of paragraph 33 was draft legislation which had not yet entered into force. She therefore proposed that the sentence should be drafted in the conditional tense as: "everyone would in principle be able to leave the country ... no one would be able to leave the country ... whether the new rules would be applied ...", etc. She also proposed that the second sentence of paragraph 35 should be amended to read: "The draft law on entry into and departure from the USSR under preparation would provide for a five-year time-limit for restrictions upon freedom to leave the country for persons who had had access to State secrets."

84. Mr. POCAR (Rapporteur) said he fully approved the amendments proposed by Mrs. Higgins.

85. Paragraphs 33-35, as orally amended, were adopted.

Paragraphs 36 and 37: Right to privacy

86. Paragraphs 36 and 37 were adopted.

Paragraphs 38-41: Freedom of religion and expression: prohibition of propaganda for war and incitement to national, racial and religious hatred

87. Paragraphs 38-41 were adopted.

Paragraphs 42 and 43: Freedom of assembly and association: right to participate in the conduct of public affairs

88. Mr. MYULLERSON suggested that the last sentence of paragraph 43 should be amended so as to make it clear that the draft bill under consideration was to introduce a multi-mandate system of election to local bodies and to the bodies of the Union Republics.

89. Paragraphs 42 and 43, as orally amended, were adopted.

Paragraphs 44 and 45: Rights of persons belonging to minorities

90. Paragraphs 44 and 45 were adopted.

Paragraphs 46-48: General observations

91. Mrs. HIGGINS said that mention should be made in the third sentence of paragraph 46 of the presence of the Minister of Justice of the USSR, who had made an extremely useful contribution to the Committee's discussions.

Paragraphs 46-48, as orally amended, were adopted.

92. Document CCPR/C/39/CRP.1/Add.4, as orally amended, was adopted.

Document CCPR/C/39/CRP.1/Add.5

93. Document CCPR/C/39/CRP.1/Add.5 was adopted.

Documents CCPR/C/39/CRP.1/Add.6, 7 and 8

94. Documents CCPR/C/39/CRP.1/Add.6, 7 and 8 were adopted.

Document CCPR/C/39/CRP.1/Add.9

95. Consideration of document CCPR/C/39/CRP.1/Add.9 was postponed as the Spanish version was not yet available.

96. Documents CCPR/C/39/CRP.1/Add.10, 11, 12 and 13 were adopted.

Document CCPR/C/39/CRP.1/Add.14

97. Consideration of document CCPR/C/39/CRP.1/Add.14 was postponed as the English version was not yet available.

Document CCPR/C/39/CRP.1/Add.19

98. Mr. POCAR (Rapporteur) said that in Chapter I, section D (Status of the Second Optional Protocol, aiming at the abolition of the death penalty), page 8, the name of Belgium and its signature date of 12 July 1990 should be added.

99. He also pointed out that the order of the sections was slightly different from that of the preceding report as a new section on the Second Optional Protocol, adopted at the end of 1989, had had to be added.

100. Mrs. HIGGINS said that she had no particular preference as to where the document on follow-up (CCPR/C/WG/39/WP.1), as amended, should be included, but it was important that States parties should be able to refer to it easily. Whether it was included in the annexes or as a chapter of the report, it should definitely be mentioned in the table of contents.

101. Mr. POCAR (Rapporteur) agreed with Mrs. Higgins. For the moment, that document was incorporated in chapter V of the draft report (Consideration of communications under the Optional Protocol). The amendment made to the guidelines regarding the form and contents of reports from States parties

under article 40, paragraph 1 (b) of the Covenant (see CCPR/C/20) had been included in chpater I (Organizational and other matters). Obviously, the follow-up document could be made a separate annex rather than be included in chapter V; the Committee might also decide to keep it in chapter V but to make it a specific section of that chapter.

102. The CHAIRMAN expressed a preference for the second solution in view of the fact that chapter V dealt with communications, which were the subject of the follow-up document.

103. Document CCPR/C/39/CRP.1/Add.19, as orally amended, was adopted.

Document CCPR/C/39/CRP.1/Add.20

104. Mr. POCAR (Rapporteur) proposed a number of changes.

105. As the second periodic report of Madagascar had been received on 13 July 1990, the words "NOT YET RECEIVED" on page 3 of the document, section E, under "Madagascar", should be replaced by "13 July 1990", and the dates of the reminders sent to the State party should be deleted.

106. As the second periodic report of Austria had been received on 20 July 1990, the words "NOT YET RECEIVED" on page 7, section J, under "Austria" should be replaced by "20 July 1990" and the dates of the reminders sent to the State party should be deleted.

107. Also on page 7, under the same section, the words "NOT YET RECEIVED" for Viet Nam should be deleted and a note should be inserted on page 11, reading: "At its thirty-ninth session (...th meeting), the Committee decided to extend the deadline for the submission of Viet Nam's second periodic report from 23 December 1988 to 31 July 1991."

108. On page 8, section M, above "Libyan Arab Jamahiriya", mention should be made of Zaire, with an indication that its third periodic report had been due by 31 January 1988; a note should also be inserted on page 11 reading: "At its thirty-ninth session (...th meeting), the Committee decided to extend the deadline for the submission of Zaire's third periodic report from 30 January 1988 to 31 July 1991".

109. On page 12, section A, it was stated that Viet Nam's report had been considered at the 982nd, 983rd and 986th meetings of the thirty-ninth session; it should be added that it had also been considered at the 987th meeting.

110. Also on page 12, section A, the first country in the list should be Madagascar, whose report had been due by 3 August 1983 and had been submitted on 13 July 1990; in the last column for Madagascar, the words "NOT YET CONSIDERED" should be inserted.

111. On page 13, section B, the name of Austria should be inserted between Canada and Zaire and it should be stated that Austria's report, due on 9 April 1988, had been submitted on 20 July 1990. In the last column for Austria, the words "NOT YET CONSIDERED" should be inserted. In the following entry concerning Zaire, the dotted line in the last column should be replaced by "993rd-995th".

112. Also on page 13, section C, the dotted line in the last column of the entry for Tunisia should be replaced by "990th-992nd".

113. Also on page 13, section C, the name of the Byelorussian SSR should be inserted between USSR and Chile and it should be stated that the report of the Byelorussian SSR had been due by 4 November 1988 and had been submitted on 4 July 1990. The words "NOT YET CONSIDERED" should be inserted in the last column of the entry for that State party.

114. On page 14, section D, the dotted line in the entry for Zaire should be replaced by "993rd-995th".

115. In addition, he drew the attention of the Committee to page 13 where, in section C concerning third periodic reports, it was stated that the reports of the Czech and Slovak Federal Republic and the German Democratic Republic respectively had been submitted but not considered. The Governments of those two Republics had indicated that they did not wish those reports to be considered as they intended to submit new reports to the Committee in view of recent events. The two reports already received had not been formally withdrawn and he pointed out to the Committee that it would have to take a decision in that respect.

116. The CHAIRMAN proposed that the wording in document CCPR/C/39/CRP.1/Add.20 should be retained and the matter kept under review. The Committee would adopt a postion on the matter at a later date in the light of developments.

117. Document CCPR/C/39/CRP.1/Add.20, as orally amended, was adopted.

Document CCPR/C/39/CRP.1/Add.21

118. Document CCPR/C/39/CRP.1/Add.21 was adopted.

Document CCPR/C/39/CRP.1/Add.25

119. Document CCPR/C/39/CRP.1/Add.25 was adopted.

The meeting rose at 12.55 p.m.